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IN THE

Supreme Court of the United States

October Term, 1969

No. 25

FREDERICK T. ZUBER, *et al.*,

Petitioners,

v.

RUSSELL ALLEN, *et al.*,

Respondents.

No. 52

CLIFFORD M. HARDIN, Secretary of Agriculture,

Petitioner,

v.

RUSSELL ALLEN, *et al.*,

Respondents.

On Writs of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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RESPONSE OF RUSSELL ALLEN, *ET AL.*, IN NATURE OF OBJECTION TO MOTION OF LORTON BLAIR, *ET AL.*, FOR LEAVE TO FILE A BRIEF *AMICUS CURIAE*

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The respondents, Russell Allen, *et al.*, responding to the motion of Lorton Blair, *et al.*, for leave to file a brief *amicus curiae* herein, respectfully say as follows:

1. The respondent, Russell Allen, advised counsel for Lorton Blair, *et al.*, by letter mailed prior to July 7, 1969, that respondents did not desire the filing of the requested brief *amicus curiae.* Respondents set forth a number of reasons for their position, including the fact that respondents' counsel was the main attorney for Lorton Blair, *et al.*, in the United States Court of Appeals for the District of Columbia Circuit and that the position of the *Blair* litigants would be adequately covered in respondents' briefs. A number of requests for the filing a brief *amicus curiae* have been received by the respondents, and they believe that the Court should not be burdened with such briefs that merely restate some of the more obvious arguments made by the respondents.

2. Respondents' counsel advised that he supported the position of Russell Allen in objecting to the filing of said brief, and his objection was made on the additional ground that only the validity of the nearby differential of the Massachusetts-Rhode Island Order is before this Court. The Secretary failed to petition this Court of certiorari in respect to the nearby differential of the New York-New Jersey Order, and the respondents are of the view that a belated application for certiorari may not be made through this case that involves a different administrative record and decision of the Secretary of Agriculture, who was permanently enjoined from instituting the same or any similar nearby differential in the New York-New Jersey Order. Respondents also do not wish the filing of said brief *amicus curiae* to be possible ground for self-disqualification of any member of the Court and specifically state that they have no objections of any nature in this regard.

Except for the foregoing qualifications, respondents interpose no additional objections to the filing of said brief

amicus curiae if the same might be of any assistance to the Court herein.

Respectfully submitted,

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